

AN ACT

ENTITLED, An Act to expand the uses of the special education extraordinary cost fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 13-37-48.1 be amended to read as follows:

13-37-48.1. In addition to the purposes specified in § 13-37-40, money set aside pursuant to § 13-37-40 may be used by the Department of Education and Cultural Affairs to establish and maintain a program to assist school districts with legal matters relating to special education, to employ personnel to audit school districts for compliance with the provisions of §§ 13-37-36.1 to 13-37-52, to establish and maintain state protocols to assist school districts in developing individualized education plans, to support activities under Part C of the Individuals with Disabilities Education Act, Infants and Toddlers with Disabilities, or to purchase assistive technology for students with a level two, three, four, or five disability.

Any approved K-12 application under the extraordinary cost fund must be funded prior to funding the Part C requests.

Section 2. That § 13-37-35.1 be amended to read as follows:

13-37-35.1. Terms used in chapter 13-37 mean:

- (1) "Level one disability," a mild disability;
- (2) "Level two disability," a mental retardation or emotional disorder;
- (3) "Level three disability," hearing impairment, deafness, visual impairment, deaf-blindness, orthopedic impairment, or traumatic brain injury;
- (4) "Level four disability," autism;
- (5) "Level five disability," multiple disabilities;
- (5A) "Level six disability," prolonged assistance;
- (6) "Index factor," is the annual percentage change in the consumer price index for urban

wage earners and clerical workers as computed by the Bureau of Labor Statistics of the United States Department of Labor for the year before the year immediately preceding the year of adjustment or three percent, whichever is less;

- (7) "Local effort," is the amount of taxes payable each year, using a levy for the special education fund of a school district of one dollar and thirty cents per thousand dollars of taxable valuation;
- (8) "Allocation for a student with a level one disability," for the school fiscal year beginning July 1, 1999, is \$3,504. For each school year thereafter, the allocation for a student with a level one disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (9) "Allocation for a student with a level two disability," for the school fiscal year beginning July 1, 1999, is \$7,914. For each school year thereafter, the allocation for a student with a level two disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (10) "Allocation for a student with a level three disability," for the school fiscal year beginning July 1, 1999, is \$10,116. For each school year thereafter, the allocation for a student with a level three disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (11) "Allocation for a student with a level four disability," for the school fiscal year beginning July 1, 1999, is \$14,705. For each school year thereafter, the allocation for a student with a level four disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;
- (12) "Allocation for a student with a level five disability," for the school fiscal year beginning July 1, 1999, is \$15,808. For each school year thereafter, the allocation for a student with

a level five disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(12A) "Allocation for a student with a level six disability," for the school fiscal year beginning July 2001, is \$1,608. For each school year thereafter, the allocation for a student with a level six disability shall be the previous fiscal year's allocation for such child increased by the lesser of the index factor or three percent;

(13) "Child count," is the number of students in need of special education or special education and related services according to criteria set forth in rules promulgated pursuant to §§ 13-37-1.1 and 13-37-46 submitted to the Department of Education and Cultural Affairs in accordance with rules promulgated pursuant to § 13-37-1.1;

(14) "Average daily membership," the average number of kindergarten through twelfth grade pupils enrolled in all schools operated by the school district during the previous regular school year plus the average number of pupils for whom the district pays tuition;

(15) "Nonpublic school," a sectarian organization or entity which is accredited by the secretary of education and cultural affairs for the purpose of instructing children of compulsory school age. This definition excludes any school that receives a majority of its revenues from public funds;

(16) "Nonpublic average daily membership," the average number of children under age sixteen who are approved for alternative instruction pursuant to § 13-27-2 during the previous school year plus:

(a) For nonpublic schools located within the boundaries of a public school district with an average daily membership of six hundred or more during the previous school year, the average number of kindergarten through twelfth grade pupils enrolled during the previous regular school year in all nonpublic schools located within the

boundaries of the public school district;

- (b) For nonpublic schools located within the boundaries of a public school district with an average daily membership of less than six hundred during the previous school year, the average number of resident kindergarten through twelfth grade pupils enrolled during the previous school year in all nonpublic schools located within the State of South Dakota;
- (17) "Special education average daily membership," average daily membership plus nonpublic average daily membership;
- (18) "Local need," an amount to be determined as follows:
- (a) Multiply the special education average daily membership by 0.089 and multiply the result by the allocation for a student with a level one disability;
 - (b) Multiply the number of students having a level two disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level two disability;
 - (c) Multiply the number of students having a level three disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level three disability;
 - (d) Multiply the number of students having a level four disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level four disability;
 - (e) Multiply the number of students having a level five disability as reported on the child count for the previous school fiscal year by the allocation for a student with a level five disability;
 - (f) Multiply the number of students having a level six disability as reported on the child

count for the previous school fiscal year by the allocation for a student with a level six disability;

(g) Sum the results of (a) through (f);

(19) "Effort factor," the school district's special education tax levy in dollars per thousand divided by \$1.30. The maximum effort factor is 1.0.

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I certify that the attached Act
originated in the

SENATE as Bill No. 60

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 60

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State